IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 20 of 1991

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SABARKANTHA JILLA PANCHAYAT - Appellant(s)
Versus
PRABHATSINH BHIKHUSINH JHALA & 2 - Defendant(s)

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Appearance :
MR HS MUNSHAW for Appellant(s) : 1,
NOTICE SERVED for Defendant(s) : 1 - 3.

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 21/08/2007

ORAL JUDGMENT

Shri H.S. Munshaw, learned counsel for the appellant; none for the respondents though

served.

2. Being aggrieved by the paltry award of Rs. 10,000/- passed by the learned Motor Accident Claims Tribunal [Main], Sabarkantha at Himatnagar on 4th August, 1990 in Motor Accident Claims Petition No. 468/86, the appellant-Sabarkantha Jilla Panchayat is before this Court.

3. The short facts necessary for disposal of the present appeal are that the respondent-claimant filed Claim Petition claiming compensation of Rs. 25,000/- from the opponents, submitting inter alia that while he was awaiting a bus, he found a tanker bearing No. GRN 3481 coming near bus stand. The claimant paid a sum of Rs.6/- to the driver of the tanker and in consideration of the said hire or reward, the driver carried him. But on way, the tanker met with an accident which resulted into bone injury to the claimant.

4. The learned Tribunal, after recording the evidence and hearing the parties, held that the claimant could not be taken to be an employee of

the Jilla Panchayat, because, he had paid hire or reward and under the circumstances, the Insurance Company could also not be held liable.

5. Shri Munshaw, after taking me through the evidence submitted that present is a case where the insured was travelling as employee of the Panchayat and if that was so, the Insurance Company should have been held liable to the full extent of the claim.

6. The submission made by Shri Munshaw, unfortunately is not supported by any other evidence which could controvert the statement of the claimant that he had paid a sum of Rs.6/- towards the hire or reward to the driver of the tanker.

7. Once it is held that the claimant had paid a sum of Rs. 6/- to the driver, then, obviously the Insurance Company could not be held liable as a passenger was being carried in a goods vehicle.

8. The Tribunal was not unjustified in exonerating the Insurance Company and making award in favour of the claimant. The appeal deserves to and is

accordingly dismissed. No costs. Interim relief, if any, is vacated.

[R.S. GARG, J.]

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